



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,156	12/27/2000	Stefan Jung	34648-00435USPT	8694

7590 12/22/2004

Richard J. Moura
Jenkins & Gilchrist, P.C.
3200 Fountain Place
1445 Ross Avenue
Dallas, TX 75202-2799

EXAMINER

LIPMAN, JACOB

ART UNIT	PAPER NUMBER
----------	--------------

2134

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,156

Applicant(s)

JUNG, STEFAN

Examiner

Jacob Lipman

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Comer, in Internetworking with TCP/IP Volume 1 Principals, Protocols, and Architecture.

With regard to claims 1 and 9, Comer discloses a method of synchronizing data in an IP network (pages 203-205) including, generating a sequence number associated with each packet (page 204) and transmitting the sequence number with the data packet (page 205). Comer further discloses that the packet can be encrypted (pages 475-476).

With regard to claim 10, Comer discloses that the receiving sequence number is extracted from the packet (page 217).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-8 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menezes et al., in Handbook of Applied Cryptography, in view of Comer.

With regard to claims 2 and 11, Comer discloses the method of claim 1, as outlined above, but does not mention decrypting the packet based on the sequence. Menezes discloses decrypting packets based on their sequence (page 193). Menezes further discloses that using stream ciphers is advantageous in telecommunications applications (page 191). It would have been obvious for one of ordinary skill in the art to use a stream cipher in a TCP/IP environment for Menezes' disclosed motivation.

With regard to claims 3 and 12, Comer discloses that error reporting is common in TCP/IP (pages 123-137).

With regard to claims 4-6, 13-15, and 18, Comer discloses that in the event of an error, it is common to retransmit packets (page 209).

With regard to claims 7, 8, 16, and 17, the examiner takes official notice that if jittering occurs, and sequence numbers might be confused, it is well known in the art to adjust the length of the number. It would have been obvious to one of ordinary skill in the art to adjust the length of the number to compensate for such jittering.

Double Patenting

5. Applicant is advised that should claim 15 be found allowable, claim 18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Response to Arguments

6. Applicant's arguments filed 10/06/2004 have been fully considered but they are not persuasive.

With regard to applicant's argument that Comer does not disclose encrypting data packets, the examiner points to pages 204 where Comer discloses that information in TCP/IP is sent in segments, and to pages 475-476 where Comer discloses encrypting TCP/IP communication.

With regard to Applicant's argument that the sequence number is not associated with the data packet, the examiner again points to page 204 in Comer. Comer discloses that each segment has a header, including a sequence number. This number is associated with the segment.

With regard to applicant's argument that 200 pages separating the disclosures, the examiner points out that the entire book describes TCP/IP communication.

With regard to applicant's argument that Menezes does not teach sequence numbers, the examiner points out that this is a 103 rejection in view of Comer who does teach sequence numbers. It would have been obvious for one of ordinary skill in the art to use a stream cipher in a TCP/IP environment for Menezes' disclosed motivation.

With regard to applicant's request for a reference that discloses that it is well known in the art and obvious to adjust the length of the number to compensate for such jittering, the examiner has included Kline et al., US Patent number 6,157,653 (column 6 lines 40-57).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

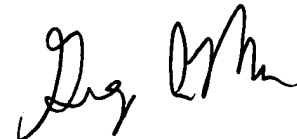
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3738. The examiner can normally be reached on 7:00 - 4:00 (M-Th).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 571-272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL



GREGORY MORSE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100